

Small Business Administration

§ 112.7

origin in their employment practices. Such assistance is deemed to have as a primary objective the providing of employment. Where a primary objective of the Federal financial assistance is not to provide employment, but discrimination on the grounds of race, color, or national origin in the employment practices of the recipient or other persons subject to the regulation tends, on the grounds of race, color, or national origin, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program to which this regulation applies, the provisions of § 112.7(a) shall apply to the employment practices of the recipient or other persons subject to the regulation, to the extent necessary to assure equality of opportunity and non-discriminatory treatment.

[38 FR 17934, July 5, 1973]

§ 112.5 Discrimination in providing financial assistance.

Development companies and small business investment companies which apply for or receive any of the financial assistance described in § 112.2(a) may not discriminate, on the ground of race, color or national origin, in providing financial assistance to small business concerns.

§ 112.6 Discrimination in accommodations or services.

Small business concerns which apply for or receive any financial assistance of the kind described in § 112.2(a)(1), concerns which are identifiable beneficiaries of loans made under § 112.2(a)(2), and physicians, hospitals, schools, libraries, and other individuals or organizations which apply for or receive financial assistance of the kind described in § 112.2(a)(5), may not discriminate in the treatment accommodations or services they provide to their patients, students, visitors, guests, members, passengers, or patrons in the conduct of such businesses or other enterprises, whether or not operated for profit.

[31 FR 2374, Feb. 4, 1966]

§ 112.7 Illustrative applications.

(a) *Employment.* The discrimination prohibited by § 112.4 includes but is not limited to any action (taken directly or through contractual or other arrangements) which subjects an individual to discrimination on the ground of race, color or national origin in any employment practice, including recruitment or recruitment advertising, employment, layoff or termination, upgrading, demotion, or transfer, rates of pay or other forms of compensation, and use of facilities.

(b) *Financial assistance.* The discrimination prohibited by § 112.5 includes but is not limited to the failure or refusal, because of the race, color, or national origin of a person, to extend a loan or equity financing to him or to any business concern of which he is an owner or employee; or, in the case of financing which has actually been extended, the failure or refusal, because of the race, color, or national origin of the borrower or of an owner or employee of the borrower, to accord the borrower fair treatment and the customary courtesies regarding such matters as default, grace periods and the like.

(c) *Accommodations or services.* The discrimination prohibited by § 112.6 includes but is not limited to the failure or refusal, because of the race, color, or national origin of a person, to accept him on a nonsegregated basis as a patient, student, visitor, guest, member, customer, passenger or patron.

(d) *Affirmative action.* (1) In some situations even though past discriminatory practices have been abandoned, the consequences of such practices continue to impede the full availability of equal opportunity. If the efforts required of the applicant or recipient under § 112.3(b)(3) to provide information as to the availability of equal opportunity, and the rights of individuals under this regulation, have failed to overcome these consequences, it will become necessary for such applicant or recipient to take additional steps to make equal opportunity fully available to racial and nationality groups previously subjected to discrimination.

(2) Even though an applicant or recipient has never used discriminatory policies, the opportunities in the business it operates may not in fact be